



**King County**  
**Records and Elections Division**  
Archives and Records Management  
Department of  
Executive Administration  
King County Administration Building  
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Seattle, WA 98104  
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September 23, 1993

TO: DEPARTMENT POLICY/PROCEDURE MANUAL STATIONS


FM: Archives and Records Management Section

RE: Distribution of Executive Policies Per 8-1-1 (AEP) and PER 8-2 (AEP)

This memo transmits two Executive Policies: PER 8-1-1 (AEP), "Executive Leave, Pay and Leave Practices for Executive, Administrative and Professional Employees as Defined by the Fair Labor Standards Act," and PER 8-2 (AEP), "Overtime Pay and Compensatory Time in Lieu of Overtime Pay." The first policy supersedes Per 8-1 (AEP), "Compensatory Time/Overtime." Please place these policies in your AEO/AEP manual behind the PER index tab, and remove the superseded policy.

Please call Linda Grob at 296-1572 if you have any questions.



Title		Document Code No.
Executive Leave, Pay and Leave Practices for Executive, Administrative, and Professional Employees As Defined by the Fair Labor Standards Act		PER 8-1-1 (AEP)
Department/Issuing Agency		Effective Date
Office of Human Resource Management		August 24, 1993
Approved:  8/19/93		

1.0 SUBJECT TITLE: Executive Leave, and Pay and Leave Practices for Executive, Administrative, and Professional Employees as defined by the Fair Labor Standards Act.

1.1 EFFECTIVE DATE: Five days after Executive signature.

1.2 TYPE OF ACTION: Superseding PER 8-1 (A-EP) dated May 11, 1986.

1.3 KEY WORDS: 1) FLSA-exempt employee; 2) salary basis; 3) hourly basis; 4) executive, administrative, or professional capacity; 5) overtime pay; 6) executive leave.

## 2.0 PURPOSE

2.1 To provide executive leave and set forth pay and leave practices to be followed for employees employed in a bona fide executive, administrative, or professional capacity. These employees are exempt from overtime pay under the federal Fair Labor Standards Act (FLSA) and the Washington Minimum Wage Act (MWA). Executive, administrative, or professional employees who are covered by a collective bargaining agreement will be compensated in the manner set forth therein, provided that the terms of the contract are more beneficial to the employee than the minimum requirements of the FLSA or MWA.

## 3.0 ORGANIZATIONS AFFECTED

3.1 All Executive departments and agencies.

## 4.0 REFERENCES

4.1 King County Charter, Section 530 (Personnel Rules).

4.2 Washington State Minimum Wage Act (RCW 49.46).

4.3 The Fair Labor Standards Act of 1938, as Amended, 29.U.S.C.201, et seq.

4.5 King County Code Chapter 3.12 (Personnel System).

5.0 DEFINITIONS

- 5.1 "Exempt employees" means those Executive branch employees who are not included in the Career Service as set forth in Section 550 of the King County Charter.
- 5.2 "FLSA-exempt employee" means an individual designated by the Director of the Office of Human Resource Management (OHRM) as being employed in a bona fide executive, administrative, or professional capacity, as defined by the State Minimum Wage Act (MWA) and the Fair Labor Standards Act (FLSA), and who is therefore exempt from the overtime pay requirements of the FLSA and the MWA.
- 5.3 "Bona fide executive, administrative, or professional capacity" means employed in a position determined by the Director, OHRM to satisfy both the "salary tests" and the "duties tests" of the FLSA.
- 5.4 "Salary basis" means the employee receives each pay period a predetermined amount constituting all or part of his/her compensation which is not subject to reduction because of variations in the quality or quantity of the work performed, except as otherwise provided by FLSA regulations.
- 5.5 "Hourly basis" means the employee is entitled to be paid for all actual hours that he/she is required or permitted to work at either the straight time regular hourly rate or overtime hourly rate as determined by the Personnel Guidelines or, if represented, by the terms of the applicable collective bargaining agreement; provided that the Personnel Guidelines or collective bargaining agreement is more generous to the employee than the minimum requirements of the FLSA or MWA.
- 5.6 "Executive branch" means that arm of government under the authority of the County Executive as defined by Title 3 of the King County Charter.
- 5.7 "Executive leave" means time off with pay granted each calendar year to employees who are exempt from the overtime pay requirements of the FLSA.

6.0 POLICY

- 6.1 The King County Executive expects all FLSA-exempt employees to work the hours necessary to satisfactorily perform their jobs.
- 6.2 FLSA-exempt employees are compensated on a salary basis.

- 6.3 FLSA-exempt employees who are absent for part of a workday will not be required to charge such absences against any accrued leave balances, nor will the employees' pay be reduced.
- 6.4 FLSA-exempt employees who are absent for part of a day are on "leave with pay" status and will record the time as such on an absence request form.
- 6.5 FLSA-exempt employees must notify their supervisors when they will be absent from work for part of the day.
- 6.6 FLSA-exempt employees must submit and have approved by their supervisor an absence request form to record use of any applicable leave (sick leave, vacation, bereavement leave, leave without pay, etc.) when absent from work for one or more full days during the pay period.
- 6.7 With the approval of the Director, OHRM, an employee who would otherwise be exempt from the FLSA may be compensated on an hourly basis when the relevant department director determines that this method of compensation is in the best interests of the department. In this event, all absences are treated as per section 6.8.
- 6.8 Incumbents of executive, administrative, or professional positions who are compensated on an hourly basis shall have **all absences** charged against pay or the appropriate leave category. Such incumbents are not employed in a bona fide executive, administrative, or professional capacity within the meaning of this executive policy.
- 6.9 Deductions may not be made from an FLSA-exempt employee's salary for absences caused by jury duty, attendance as a witness or temporary military leave. The County may, however, offset any amounts received by an FLSA-exempt employee as jury or witness fees or military pay for a particular week against the salary due for that particular week. The employee is required to report such earnings to his/her department director or designee.
- 6.10 An FLSA-exempt employee may not be suspended without pay for less than one full workweek or multiples thereof unless the discipline is imposed for infractions of safety rules that are intended to prevent serious danger to the workplace or other employees. Suspensions without pay imposed for violations of safety rules of major significance may be of any length. All suspensions require the prior approval of the Director, Office of Human Resource Management.

- 6.11 Deductions from the salary of an FLSA-exempt employee cannot be made for absences caused by the agency or that agency's operating requirements unless no work is performed in the workweek.
- 6.12 FLSA-exempt employees are not eligible for overtime pay or compensatory time accrual.
- 6.13 All directors of executive departments/offices will be granted up to ten (10) days of executive leave each calendar year.
- 6.14 Department directors will determine those FLSA-exempt employees whose positions require them to work substantially in excess of the standard work schedule for the department on an ongoing, regular basis. Such employees will receive up to ten (10) days of executive leave annually.
- 6.15 Department directors shall send a list of employees eligible for executive leave to the Director, Office of Human Resource Management, by January 1st of each year. Lists may be updated on an as-needed basis.
- 6.16 FLSA-exempt employees must schedule and receive approval for use of executive leave in accordance with departmental policies.
- 6.17 Executive leave may be used for any reason.
- 6.18 Executive leave must be used in the calendar year granted and shall not be carried into the next calendar year or cashed out.
- 6.19 Executive leave must be used prior to any change in classification, transfer to another county agency or separation from employment or it will be forfeited. There shall be no cash-out of executive leave.
- 6.20 Incumbents of executive, professional, or administrative positions who are covered by a collective bargaining agreement are not eligible for executive leave unless such leave is specifically authorized by the applicable union contract.
- 6.21 Incumbents of executive, administrative, or professional positions who are compensated on an hourly basis are not eligible for executive leave. Such incumbents are not employed in a "bona fide" executive, administrative, or professional capacity within the meaning of this executive policy.
- 6.22 In the event any provision of this executive policy conflicts with an applicable provision of a collective bargaining agreement, the latter shall prevail.

## 7.0 PROCEDURES

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| Department Director  | 7.1 | Determines which FLSA-exempt employees are entitled to executive leave and forwards list to Director, Office of Human Resource Management.   |
| FLSA-exempt Employee | 7.2 | Submits in accordance with departmental policies an absence request form to schedule and request approval for use of executive leave or other leave benefits for absences of one full day or longer. |
| Supervisor           | 7.3 | Reviews request for use of leave benefits; approves or denies request or forwards to decision maker.   |
|                      | 7.4 | Forwards written approval or denial to employee.   |
| FLSA-exempt Employee | 7.5 | Notifies supervisor when he/she will be absent for part of the workday.  |
|                      | 7.6 | Completes absence request form recording time absent for less than a day as leave with pay and forwards form to supervisor.  |

## 8.0 RESPONSIBILITIES

- 8.1 Employee is responsible for:
  - 8.1.1 Performing his/her work assignments satisfactorily.
  - 8.1.2 Notifying his/her supervisor when he/she will be absent for part of a workday.
  - 8.1.3 Obtaining advance approval for any absences of one or more full days.
  - 8.1.4 Scheduling and receiving approval for use of executive leave with his/her supervisor.
- 8.2 Supervisor is responsible for:
  - 8.2.1 Monitoring employees' work performance.
  - 8.2.2 Approving or denying requests for use of executive leave and other leave benefits.

- 8.2.3 Ensuring that employees are compensated in accord with the FLSA, MWA, Personnel Guidelines, and/or collective bargaining agreement.

8.3 Department director is responsible for:

- 8.3.1 Ensuring that managers and supervisors receive training to correctly compensate FLSA-exempt employees and hourly employees in compliance with the FLSA, MWA, county ordinances and the provisions of this policy.
- 8.3.2 Determining whether it would be in the best interest of the County to compensate an employee whose duties qualify for an executive, administrative, or professional exemption on an hourly basis rather than a salary basis.
- 8.3.3 Providing justification and requesting authorization of the Director, Office of Human Resource Management, to pay an otherwise overtime exempt employee on an hourly basis rather than a salary basis.
- 8.3.4 Designating which FLSA-exempt employees are required on an ongoing, regular basis to work in excess of the standard work schedule for the department and who are therefore eligible for up to ten (10) days of executive leave each calendar year.
- 8.3.5 Notifying the Director, Office of Human Resource Management, by January 1st of each year and as needed thereafter, which FLSA-exempt employees are eligible for executive leave.

8.4 Director, Office of Human Resource Management is responsible for:

- 8.4.1 Determining which positions satisfy the requirements set forth in the FLSA to be "bona fide executive, administrative, or professional" positions and whose incumbents are therefore exempt from the requirement to be paid for overtime work.
- 8.4.2 Distributing a list of FLSA exempt positions to County agencies.
- 8.4.3 Approving or denying requests from department directors to pay otherwise FLSA exempt employees on an hourly rather than a salary basis.